

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-4568**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TRE'S DAVIS, a/k/a Trey Davis,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. John T. Copenhaver, Jr., District Judge. (2:12-cr-00031-1)

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Submitted: January 17, 2013

Decided: January 22, 2013

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Before GREGORY, SHEDD, and KEENAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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David Schles, Charleston, West Virginia, for Appellant. Steven Loew, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tre's Davis pled guilty to possession of a firearm by a prohibited person, 18 U.S.C. § 922(g) (2006), and distribution of cocaine, 21 U.S.C. § 841 (2006), and was sentenced to 63 months' imprisonment. Davis' counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that there are no meritorious issues for appeal but questioning the reasonableness of Davis' sentence. Although advised of his right to file a pro se supplemental brief, Davis has not done so. We affirm.

We review Davis' sentence for reasonableness, applying an abuse-of-discretion standard. Gall v. United States, 552 U.S. 38, 51 (2007). This review requires consideration of both the procedural and substantive reasonableness of the sentence. Id.; United States v. Lynn, 592 F.3d 572, 575 (4th Cir. 2010). After determining whether the district court correctly calculated the advisory Guidelines range, this court must decide whether the court properly considered the 18 U.S.C. § 3553(a) (2006) factors, analyzed the arguments presented by the parties, and sufficiently explained the selected sentence. Lynn, 592 F.3d at 575-76; United States v. Carter, 564 F.3d 325, 330 (4th Cir. 2009). If the sentence is free of significant procedural error, this court will review the substantive reasonableness of the sentence. Lynn, 592 F.3d at 575; United States v. Pauley,

511 F.3d 468, 473 (4th Cir. 2007). In doing so, we presume that a sentence within a properly-calculated Guidelines range is reasonable. Rita v. United States, 551 U.S. 338, 351 (2007). We have thoroughly reviewed the record and conclude that Davis' sentence is both procedurally and substantively reasonable. Moreover, Davis has failed to overcome the presumption of reasonableness we accord his within-Guidelines sentence.

In accordance with Anders, we have reviewed the record in this case and have found no meritorious issues for appeal. We therefore affirm Davis' conviction and sentence. We deny counsel's request to withdraw at this time. This court requires that counsel inform Davis, in writing, of the right to petition the Supreme Court of the United States for further review. If Davis requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may again move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Davis.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED